inadmissable under the state statute excluding testimony as to a personal transaction with the deceased. *Johnston* v. *Bee* (W. Va. 1919) 100 S. E. 486.

Statutes are common which prohibit an interested witness from testifying "concerning a personal transaction or communication between the witness and the deceased person . . .," N. Y. Code Civ. Proc. § 829; *cf.* Tenn. Ann. Code (1918) § 5598; Ohio Gen. Code (1910) § 11495; Iowa Ann. Code (1913) § 4604, the object being to seal the lips of a party to such a transaction concerning said transaction, because of the inability of the deceased to dispute the assertion, if untrue. 4 Jones, Evidence, 889; see *Sankey* v. *Cook* (1891) 82 Iowa 125, 128, 47 N. W. 1077; *Wilson* v. *Reynolds* (1883) 31 Hun 46, 48, *aff'd* (1885) 98 N. Y. 640. Under such statutes some jurisdictions exclude testimony of the sort given in the instant case. *Ware* v. *Burch* (1906) 148 Ala. 529, 42 So. 562; *Cunningham's Adm'r* v. *Speagle* (1899) 106 Ky. 278, 50 S. W. 244. Most jurisdictions, however, adopt what seems to be the better view and admit the testimony. *Britt* v. *Hall* (1902) 116 Iowa 564, 90 N. W. 340; *Martin* v. *McAdams* (1894) 87 Tex. 225, 27 S. W. 255; *Rush* v. *Steed* (1884) 91 N. C. 226; see *Hoag* v. *Wright* (1903) 174 N. Y. 36, 40, 66 N. E. 579; 2 Jones, *op. cit.*, 889; 3 *Ibid.*, 608 *et seq.* If the opinion of the witness is derived solely from his observation of actual signings, his testimony would be inadmissible. *Wilber* v. *Gillespie* (1908) 127 App. Div. 604, 112 N. Y. Supp. 20; see *Rush* v. *Steed, supra*; 8 Columbia Law Rev. 650. On the other hand, testimony of the sort in question cannot be interpreted as relating to a personal transaction with a deceased. It is clearly nothing more than the opinion of the witness gained from previous knowledge of the deceased's handwriting, which the deceased, even if alive, would not be competent to deny; and this, furthermore, would not be doing indirectly what cannot be done directly, which, in a word, is the argument on the other side. The interest of the witness should, of course, influence the jury in evaluating his testimony. *Lovell* v. *Davis* (1893) 52 Mo. App. 342, 349; see *Lounsbury* v. *Knights of Maccabees* (1908) 128 App. Div. 394, 396, 112 N. Y. Supp. 921.

WORKMEN'S COMPENSATION ACTS—MUNICIPAL EMPLOYEE—POLICEMAN.—A patrolman, who had been detailed by his superior officer to care for the prisoners in the station house, to clean the walls and floor, and to fix the electric lights, was accidentally injured in the performance of this duty. *Held,* two judges dissenting, that he was an employee of the city within the Workmen's Compensation Law. N. Y. Consol. Laws c. 67 (Laws of 1914 c. 41). *Ryan* v. *City of New York* (1919) 189 App. Div. 49, 178 N. Y. Supp. 402.

The manner of his appointment and the character of his duties constitute a policeman a public officer. *Dempsey* v. *New York C. & H. R. R.* (1895) 146 N. Y. 290, 40 N. E. 867; *Haney* v. *Cofran* (1915) 94 Kan. 332, 146 Pac. 1027. A city is not liable as master or principal for the torts of its policemen, *Calwell* v. *City of Boone* (1879) 51 Iowa 687, 2 N. W. 614; *Peters* v. *City of Lindsborg* (1889) 40 Kan. 654, 20 Pac. 490, and in the enforcement of its police regulations it is not engaged in a "trade or business". *Griswold* v. *City of Wichita* (1917) 99 Kan. 502, 162 Pac. 276. It was the intention of the legislature in passing the Act to make compensation a part of the cost of production which would ultimately be paid by the consumer. See *Matter of Post* v. *Burger & Gohlke* (1916) 216 N. Y. 544, 111 N. E. 351. Some Work-

men's Compensation Acts in terms include policemen within their operation; Wis. Stat. 1915, § 2394(7); Ohio Gen. Code (Page & Adams' Supp., 1916) § 1465(61); others exclude them. 6 Edw. VII c. 58 § 13. But where the question is left in abeyance, the better view would seem to be that since policemen are public officers they are not employees within the purview of the statute, *Blynn* v. *City of Pontiac* (1915) 185 Mich. 35, 151 N. W. 681; *Griswold* v. *City of Wichita, supra; contra, McCarl* v. *Borough of Houston* (Pa. 1919) 106 Atl. 104, and that the remedy lies with the legislature.